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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Mississippi state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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ED 382 534

Antidote: Civic Responsibility

Mississippi Law

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SO 025 043

Lesson 1

1. **Has Aimee violated any state laws? Have her parents?**

   Aimee has violated no Mississippi law as there is no law which makes a minor liable for an unintentionally dangerous act toward another minor.

   Aimee and Carrie's parents, however, may be in violation of Mississippi law. Miss. Code Ann. §43-23-25 makes it unlawful for a parent, guardian or any person who willfully commits any act or omits the performance of a duty which act or omission contributes or tends to contribute the neglect or delinquency of a child. Additionally, depending on the frequency with which Carrie was left Aimee and for how long, the parents might lose custody of the girls.

2. **Does state law allow 17 year old Tyrell to drink a glass of wine with his dinner without his parents' consent?**

   No. Miss. Code Ann. §67.1.81 makes it illegal for anyone under 21 to purchase, receive, or possess in a public place any alcoholic beverage. Persons bussing tables are not in possession in violation of this law.

   Miss. Code Ann. §67-3-54 allows persons between 18 and 21 years to possess and consume light wine (less than 4% alcohol) and beer with the consent of his parents or legal guardian so long as the parent or guardian is present. Additionally, persons 18 and over serving in armed services may lawfully possess and consume light wine and beer on military property where such consumption is allowed. Again, one under 21 is not unlawfully possessing light wine or beer if in the scope of employment s/he is stock shelves, serving or bussing tables.

3. **Is Maria violating any law when she tells her roommates whom to call to buy marijuana?**

   Miss. Code Ann. §41-29-139(a) (1991) makes unlawful for any person knowingly or intentionally (1) To sell, barter, transfer, manufacture, distribute, dispense or possess with intent to sell, barter, transfer, manufacture, distribute or dispense, a controlled substance. Arguably Maria is transferring a controlled substance, for without her assistance her roommates would not know how to attain the substance. Additionally, Maria might be charged with conspiracy to transfer marijuana. She would be in violation of §97-1-1 if two or more persons conspired to commit a crime or accomplish any unlawful purpose. Thus, since purchasing marijuana is a crime, conspiring to purchase it is a violation Maria has committed.

4. **Have Adam and Alex broken any laws other than those against**

drinking and fighting?

Yes. Since Joe died while fighting with the twins they might be charged with "Homicide - killing while committing a misdemeanor - The killing of a human being without malice, by the act, procurement, or culpable negligence of another, while such other is engaged in the perpetration of any crime or misdemeanor not amounting to a felony, or in attempt to commit any crime or misdemeanor, where such killing would be murder at common law, shall be manslaughter." Miss. Code Ann. §97-3-29 (1993). Alternatively, they could be charged with assault under Miss. Code Ann. §97-3-7 which states, "(1) a person is guilty of simple assault if he (a) attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or (b) negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm. . . "

5. **Has Jose violated any state law even though he is not drinking? Has Carlos or TJ violated any state law?**

Jose, age 17, is acting as the designated driver and is not drinking alcohol. He is not violating any laws.

TJ, age 18 cannot drink alcohol, but could drink light wine or beer if he was in the presence of his parents and had their permission. See. Q2 above. This appears not to be the situation here, so TJ is probably violating Miss. Code Ann. §67-1-81 which makes it unlawful for one under 21 to possess alcohol. Consequently, Carlos, who at 22 may legally drink, is in violation of §67-1-87 too if he furnishes or gives alcohol to TJ.

Carlos, age 22, is above the legal drinking age, but still might be in violation of Mississippi law. Miss. Code Ann. §67-1-81 prohibits a person from selling, furnishing, disposing of, giving or causing to be sold, furnished, disposed of or given, any alcoholic beverage to any person under 21. If Carlos provided alcohol to TJ, age 18, or assisted him in obtaining alcohol, he is violation of this law.

TJ may also be in violation of Miss. Code Ann. §67-1-81 which makes it unlawful for any person under 21 who purchases, receives or has in his/her possession in any public place, any alcoholic beverages.

6. **Is Dr. Melrose violating any state or federal law by prescribing pain killers without conducting an examination or determining need?**

Dr. Melrose is violating not only state law, but federal law too. Under 21 U.S.C.A. § 829, a physician must have a legitimate medical purpose for dispensing drugs, and the act

of dispensing or prescribing drugs should be within the usual course of professional conduct. U.S. v. Varma, 691 F.2d 460 (1982), U.S. v. Jamieson, 605 F. Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide him with a bona fide reason for needing the painkillers, may also be breaking the law. 21 U.S.C.A. § 843 prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

Dr. Melrose may be violating Miss. Code Ann. §41-29-139(e) (1991) which makes it unlawful, "for any physician practicing medicine in this state to prescribe, dispense or administer any amphetamine or amphetamine-like anoretics and/or central nervous system stimulants classified in Schedule II, . . . for the exclusive treatment of obesity, weight control or weight loss." Thus, depending on the drugs being prescribed he may be violating this section.

Further, he might be in violation of Miss. Code Ann. §41-29-144(2) if he knowingly or intentionally possesses, sells, delivers transfers for attempts to possess, sell, deliver or transfer a false, fraudulent or forged prescription of a practitioner. Arguably, a prescription written with no medical basis is fraudulent.

Dr. Melrose might additionally be violating Miss. Code Ann. §41-29-139(a) (1991) makes unlawful for any person knowingly or intentionally (1) To sell, barter, transfer, manufacture, distribute, dispense or possess with intent to sell, barter, transfer, manufacture, distribute or dispense, a controlled substance.

7. Is Danielle violating any law by taking only one or two pills from someone else's prescription?

Danielle is violating several state and federal laws. Since she is in effect dispensing prescription drugs to herself, she is violating 21 U.S.C.A. § 829, which prohibits dispensing any controlled substance which is a prescription drug without the written prescription of a practitioner. She is also violating 21 U.S.C.A. § 843, which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge and 21 U.S.C.A. § 844 which prohibits simple possession of a controlled substance unless such a substance was obtained by a prescription. The seriousness of her crime under federal drug control laws will depend on the type of drug which she is taking and how the drugs are used.

Danielle is violating Miss. Code Ann. §41-29-139(c) which

makes it unlawful "for any person knowingly or intentionally to possess any controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice. Since Danielle took the drugs from the prescriptions she is violating this section. Further, she may violating Miss. Code Ann. §97-17-43 for feloniously taking, stealing or carrying away any personal property of another, under the value of $100.

8. Is Renee breaking any law even though she is not selling drugs herself?

Even thought she is not selling drugs directly, Renee is violating several state and federal laws. She is violating 21 U.S.C.A. § 841 prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense drugs and 21 U.S.C.A. § 844 prohibiting simple possession of a controlled substance.

Renee could receive an increased sentence in accordance with the federal sentencing guidelines as a result of her using children in her scheme. Under 21 U.S.C.A. § 859, the distribution of a controlled substance to a person under 21 year of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860, which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 also provides for increased sentences in cases of abuse of one's position of trust, as in a drug trafficking defendant involving her daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

Miss. Code Ann. §41-29-139(a) (1991) makes unlawful for any person knowingly or intentionally (1) To sell, barter, transfer, manufacture, distribute, dispense or possess with intent to sell, barter, transfer, manufacture, distribute or dispense, a controlled substance. Renee's actions clearly violate this section. She faces additional penalties if the park where she is distributing the drugs is close to or part of a school. Miss. Code Ann. §41-29-142.

9. Did Jim violate any law other than those regarding controlled substances?

Their heroin use is a felony under federal drug-control statutes. 21 U.S.C.A. § 841 prohibits possession of a controlled substance with the intent to manufacture, distribute or dispense such substance. 21 U.S.C.A. § 844 prohibits simple possession of a controlled substance.

There appears to be no laws in Mississippi regarding failure to disclose HIV or sharing needles with knowledge one is HIV positive. It is illegal under §41-29-139(d) for one to possess with the intent to use drug paraphernalia.

10. **Has the bartender or owner of Bulldog's Bar & Grill violated any law?**

Both Bulldog's and the bartender are in violation of Miss. Code Ann. §67-1-83 (1991) which prohibits any permittee or other person from selling or furnishing alcoholic beverages to any person who is visibly intoxicated or known to be an habitual user of narcotics or other habit-forming drugs. Miss. Code Ann. §67-3-53 prohibits the sale of light wine or beer to visibly intoxicated persons or habitual drunkards.

Lesson 2

CRIMINAL JUSTICE STATISTICS: DRUG AND ALCOHOL RELATED OFFENSES UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990 A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

Lesson 5

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment not to exceed 30 years, and • fine of between $1000 and $1 million
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment not to exceed 3 years, and • fine of between $1000 and $30,000
First Offense: Codeine - Possession - 200 mg	• imprisonment not to exceed 3 years, and • fine of between $1000 and $30,000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment not to exceed 20 years, and • fine of between $1000 and $1 million
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment not to exceed 3 years, and • fine of between $1000 and $30,000

Cite: MS Code Ann. §41-29-139

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite : 21 U.S.C. § 841 (1992).

Lesson 6 & 7

1. **What does DWI stand for?**

Driving while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. Under §63-11-30 it is unlawful for a person to drive a vehicle while under the influence of intoxicating liquor or if he/she has a blood alcohol concentration of 0.10 or more.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

The Mississippi code does not distinguish between DWI and DUI.

4. **What are the penalties for being convicted of DWI? DUI?**

Conviction	Punishment
1st - (§ 63-11-30)	▪ fine of $250 to $1000, and/or jail for not more than 24 hours, and ▪ successful completion of an alcohol safety program. ▪ license suspended for 90 days or until alcohol safety program (up to 1 yr), whichever is greater.
2nd (within 5 years of 1st)	▪ fine of $600 to $1000 , and ▪ imprisonment for 48 hours to 1 year, and ▪ license suspended for 1 year.
3rd (within 5 years of 2nd)	▪ fine of $800 to $1000, and ▪ imprisonment for 30 days to 1 year, and ▪ license revoked for 5 years.
4th and subsequent violations within 5 years	▪ fine of $2000 to $5000, ▪ imprisonment of 90 days to 5 years, ▪ license revoked for 5 years.

5. **What is the penalty for refusing to submit to a breathalyser test upon a police officer's reasonable request?**

Under §63-11-5 any person who drives in Mississippi consents to a breath test. Failure to submit to a breath test will lead to revocation of the right to drive for 90 days if the individual

has no prior convictions under 63-11-30 or 1 year if there are previous convictions.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated.**

Under §63-11-30 if one's BAC is 0.10% or more s/he is legally intoxicated.

7. **The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?**

False. Mississippi does not lower the BAC for persons under 21.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

False. Section 97-31-47 states that it is unlawful for any person to transport into or out of the state ow within the state any intoxicating liquors intended for private use except for wines used for religious purposes or alcohol used for medicinal purposes. Section 97-31-53 states that a violation of the above will result in a fine between $100 and $500 and/or jail for up to 6 months. There is no similar code section that discusses beer which does not fall under "intoxicating liquor."

Under §67-3-70 it is unlawful for any person under the age of 21 to possess or purchase any alcohol. Violation of this section will be punished by a fine of $25 - $500 and/or not more than 30 days of community service.

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- WV and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only

IL: minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.
than 10 years or more than life and a fine not to exceed 4 million dollars.